



UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

**TRENK, DiPASQUALE, WEBSTER,
DELLA FERA & SODONO, P.C.**

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*Counsel to Mantiff Cheyenne Hospitality, LLC
Debtor and Debtor-in-Possession*

In re:

MANTIFF CHEYENNE HOSPITALITY, LLC,

Debtor.

Case No. 09-12621 (NLW)

Chapter 11

Honorable Novalyn L. Winfield

**CONSENT ORDER ASSIGNING THE ASSET PURCHASE
AGREEMENT AND EXTENDING DEADLINE TO
CLOSE ON SALE OF DEBTOR'S BUSINESS AND BUSINESS ASSETS**

The relief set forth on the following pages, numbered two (2) through five (5), is hereby
ORDERED.

DATED: 11/16/2009



Honorable Novalyn L. Winfield
United States Bankruptcy Judge

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Debtor: Mantiff Cheyenne Hospitality, LLC

Case No.: 09-12621 (NLW)

Caption of Order: Consent Order Assigning Asset Purchase Agreement and Extending Deadline to Close on Sale of Debtor's Real and Personal Property

THIS MATTER having been originally presented to the Court by Trenk, DiPasquale, Webster, Della Fera & Sodono, P.C., counsel for Mantiff Cheyenne Hospitality, LLC, Chapter 11 debtor and debtor-in-possession (the "Debtor"), upon motion for entry of an Order authorizing the Debtor to sell its real and personal property (as more clearly defined in the Application filed in support of the Motion) and granting related relief (the "Motion"); and HCW Hospitality, LLC having entered into an Asset Purchase Agreement with the Debtor on July 24, 2009 (the "Asset Purchase Agreement"), and the Court having considered the pleadings filed by the Debtor in support of its Motion and opposition thereto, if any; and the Court having heard oral argument, if any; and the Court having previously entered an Order Approving the Sale of Debtor and Debtor-In-Possession Business and Business Assets, Free and Clear of All Liens, Claims and Interests, by order dated August 3, 2009 (the "Sale Order"); and the parties having further agreed to assign the Asset Purchase Agreement and extend the closing date based on the terms set forth herein; and for other good cause having been shown,

IT IS ORDERED that HCW Hospitality, LLC ("HCW Hospitality") be and hereby is authorized to assign its rights and interests under the Asset Purchase Agreement to CJM Hospitality, LLC ("CJM Hospitality"); and it is further

ORDERED that within two (2) business days of entry of the within Consent Order, CJM Hospitality shall pay to Escrow Agent, an additional non-refundable deposit in the amount of \$200,000, and on or before November 30, 2009 an additional non-refundable deposit in the amount of \$125,000 (collectively, the "Additional Deposits"), in exchange for an extension of the deadline to close on the sale of the Debtor's business and business assets to

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Debtor: Mantiff Cheyenne Hospitality, LLC

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December 14, 2009 ("Closing Date"); and it is further

ORDERED that within one (1) day of the Escrow Agent's receipt of the \$200,000 additional deposit, the Escrow Agent shall forward same to an escrow account established by Fidelity Bank of Florida, N.A. ("Fidelity") for purposes of allowing a potential draw-down by CJM Hospitality as explained below; and it is further

ORDERED that notwithstanding anything set forth herein to the contrary, it is agreed that CJM Hospitality may draw down a total of up to \$200,000 (the "Maximum Draw-Down") from the Additional Deposits to make any repairs to the Hotel (as defined in the Motion) so that the outstanding violations at the Hotel (the "Violations") can be remedied and the Hotel reopened. Each request for the drawing down by CJM Hospitality up to the Maximum Draw-Down shall be submitted to Fidelity and accompanied with appropriate documentation by CJM Hospitality which will be reviewed in a timely manner by Fidelity for its approval which approval will not be unreasonably withheld. It is agreed by the parties that CJM Hospitality may draw down up to the Maximum Draw-Down prior to the closing to remedy and cure the Violations. Notwithstanding the foregoing, at the option of CJM Hospitality at the closing of the sale contemplated herein, any remaining amount of the Additional Deposits that has not been drawn-down for repairs may be either: (i) applied as a credit toward the purchase price set forth in the Asset Purchase Agreement (the "Purchase Price"), or (ii) requested to be released to CJM Hospitality for repairs in which case no portion of the deposit shall be applied as a credit toward the Purchase Price; and it is further

ORDERED that the assignment contemplated herein is contingent upon CJM Hospitality

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Debtor: Mantiff Cheyenne Hospitality, LLC

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applying for and receiving approval for a loan by Fidelity of up to \$2.3 million; and it is further

ORDERED that in the event that CJM Hospitality closes on or before the Closing Date or such other date as agreed to by the parties in writing, CJM Hospitality shall receive credit against the Purchase Price for the initial and second deposits made by HCW Hospitality in the amount of \$370,000 (the "HCW Deposit"); and it is further

ORDERED that in the event that CJM Hospitality closes on or before the Closing Date or such other date as agreed to by the parties in writing, Fidelity agrees to an additional carve-out from the HCW Deposit in the amount of \$37,500¹ to be used for the Debtor's professional fees pursuant to 11 U.S.C. § 506(c); and it is further

ORDERED that in the event that CJM Hospitality closes on or before the Closing Date or such other date as agreed to by the parties in writing, HREC Investment Advisors agrees to a \$37,500 carve-out from its commission to be used for the Debtor's professional fees pursuant to 11 U.S.C. § 506(c); and it is further

ORDERED, that to the extent CJM Hospitality breaches the terms of the APA and/or the conditions of this Consent Order, any and all deposits held by Escrow Agent shall be deemed property of the estate pursuant to 11 U.S.C. § 541, and the proceeds from the HCW Deposit shall be split equally between the Debtor's estate and Fidelity and the Additional Deposits shall be immediately released to Fidelity; and it is further

¹ The \$37,500 additional carve-out is in addition to the \$75,000 carve-out to be used to pay for administrative fees and/or a potential distribution to unsecured creditors pursuant to 11 U.S.C. § 506(c) as set forth in the Sale Order (the "Original Carve-out"). Fidelity consents that the Original Carve-Out shall be first applied to the Debtor's outstanding professional fees.

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Debtor: Mantiff Cheyenne Hospitality, LLC

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ORDERED that all other terms and conditions set forth in the Sale Order remain in full force and effect except to the extent modified by this Consent Order.

THE FORM AND ENTRY OF THE WITHIN
CONSENT ORDER IS HEREBY AGREED TO BY:

JOSEPH H. ALESSI, LLC
Counsel to Assignor, HCW Hospitality, LLC

By: /s/ Joseph H. Alessi
Joseph H. Alessi

**TRENK, DiPASQUALE, WEBSTER
DELLA FERA & SODONO, P.C.**
*Counsel to Mantiff Cheyenne Hospitality,
LLC, Debtor and Debtor-in-Possession*

By: /s/ Thomas M. Walsh
Thomas M. Walsh

PORZIO, BROMBERG & NEWMAN, P.C.
*Counsel to Fidelity Bank of Florida, N.A.
Secured Creditor*

By: /s/ Brett S. Moore
Brett S. Moore

CJM HOSPITALITY, LLC

By: /s/ Atul Desai
Atul Desai, Member

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